LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7695
BILL NUMBER: SB 615

NOTE PREPARED: Mar 18, 2005
BILL AMENDED: Mar 17, 2005

SUBJECT: CHOICE Board and Medicaid.

FIRST AUTHOR: Sen. Server
FIRST SPONSOR: Rep. Becker

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill adds additional members to, and additional duties for, the Community and Home Options to Institutional Care for the Elderly and Disabled (CHOICE) Board. It also extends certain expiration dates. The bill requires the Office of Medicaid Policy and Planning (OMPP) to adopt rules concerning: (1) the criteria and process used to determine if a developmentally disabled individual qualifies for the level of care provided by an intermediate care facility for the mentally retarded; (2) the criteria and process used to determine the number of hours of care that a developmentally disabled individual needs in certain supervised group living settings; and (3) requirements for the Supported Living Program and reimbursement system. The bill also requires the Division of Disability, Aging, and Rehabilitative Services to adopt rules to exempt certain accredited agencies from the supported living services requirements.

Effective Date: Upon passage; July 1, 2005.

Explanation of State Expenditures: *CHOICE Board:* The bill expands the membership of the CHOICE Board from 9 to 15 members. The additional members include 2 lay members and 4 nonvoting legislative members. CHOICE Board laymembers are eligible to receive $50 per diem plus travel reimbursement. Legislative members are eligible for $134 per diem plus travel reimbursement. The expense associated with the legislative members is paid from appropriations to the Legislative Council or the Legislative Services Agency. The Board is required to meet a minimum of 6 times each year. The cost of this provision for member per diem would be an additional $600 for the lay members and $3,216 for the legislative members. The cost of travel reimbursement would be dependent upon the home stations of the new appointees, the number of meetings attended, and the number of miles traveled.

Waiver Applications: The bill extends deadlines for certain waiver applications required in P.L. 274-2003. In some instances, OMPP reported that some of the waivers were filed and in other cases, OMPP did not file the waiver applications required by P.L.274-2003, reporting that information necessary for the waiver applications was being developed. P.L. 274-2003 provides that the State Budget Director and the Secretary of FSSA are responsible for ensuring that the cost of services provided in the affected program does not exceed available state and federal funding. The cost of implementing the waivers if approved by the Centers for Medicare and Medicaid Services (CMS) would be subject to this constraint.

The waiver application process is not without opportunity costs. Waiver applications are developed and submitted by the existing staff in OMPP. Waiver applications must be developed and adequately justified. If the Centers for Medicare and Medicaid Services have questions or request additional information, staff must be available to respond within specified time lines or requests are considered expired. If the waivers are subsequently approved, OMPP must implement the reimbursement for services, or changes to services, and fulfill waiver reporting requirements, including the critical fiscal neutrality reports. OMPP is currently operating eight waivers.

(Revised) *Requirements for Rule Promulgation:* This bill will require OMPP to adopt three rules concerning Medicaid waiver care and residential placements for the developmentally disabled. The bill also requires the amendment of rules recently promulgated by the Division of Disability, Aging, and Rehabilitative Services. The rule promulgation process can be accomplished within the existing level of resources available to OMPP and the Division. The fiscal impact of the Medicaid rules required by the bill should be at least cost neutral and may result in some savings.

Background Information: The bill requires OMPP to adopt rules defining the process and criteria for determining if a developmentally disabled individual qualifies for the level of care provided by an intermediate care facility for the mentally retarded, (ICF/MR). This rule is intended to standardize the process and criteria used to determine eligibility for placement in group homes and also eligibility for Medicaid developmentally disabled waiver services.

The bill requires OMPP to adopt a rule that defines the process and criteria used to determine the number of hours of care a developmentally disabled individual needs in a supervised group living setting. This rule should impact the licensure requirements of the ICFs/MR through a revision in the way supervised group living settings are reimbursed. OMPP reports that currently an individual's placement is determined by the number of hours determined to be needed for care. If the individual's needs change, because of the way group homes are currently licensed and reimbursed, the individual may be required to move to a different group home or setting. This rule is intended to structure the reimbursement to be commensurate with the amount of care the individual requires, not the location in which the care is given.

The bill requires the amendment of the Supported Living Program and reimbursement rules to include an independent assessment of the level of resources needed to meet the needs of a developmentally disabled individual and to implement the use of a funding matrix to quantify the assessment process and provide a cap on service resources that is based on the level of service needs. OMPP reports that the existing process has led to wide disparities in the amount of dollars allocated to individuals who have similar levels of need. The rule is intended to make allocations of the dollars available more consistent among individuals while providing individual flexibility to determine the resources needed.

The bill also requires the Division of Disability, Aging, and Rehabilitative Services to amend a recently

promulgated rule to exempt agencies that are accredited by national accrediting organizations. The amendment process should be able to be accomplished within the existing level of resources available to the Division. It is not known if this provision would meet the level of accountability for quality of care measures that were recommended by the Centers for Medicare and Medicaid Services that led to the promulgation of the original rules.

Medicaid is jointly funded by the state and federal governments. The state share of program expenditures is approximately 38%. Medicaid medical services are matched by the federal match rate (FMAP) in Indiana at approximately 62%.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Office of the Secretary of the Family and Social Services Administration (OMPP and DDARS).

Local Agencies Affected:

Information Sources: Office of Medicaid Policy and Planning; *Indiana Register*, Volume 28, Number 2, 460 IAC 1.1.

Fiscal Analyst: Sarah Brooks, 317-232-9559; Kathy Norris, 317-234-1360.